FILED United States Court of Appeals Tenth Circuit

Case UNITED S'	No TATES COURT OF APPE	JUN 7 2001
	TENTH CIRCUIT	PATRICK FISHER Clerk
UNITED STATES OF AMERICA,)	
Respondent/Appellee.		
V.	Execution D	
ГІМОТНҮ JAMES McVEIGH,) June 11, 200	1, 7:00 a.m.
Movant/Appellant.)	

EMERGENCY APPLICATION FOR STAY OF EXECUTION

Pursuant to Fed. R. App. P. Rule 8 and Tenth Circuit Rule 8.1, Mr. McVeigh, through undersigned counsel, moves this Court to grant a stay of the pending execution date set presently for June 11, 2001, at 7:00 a.m. In support of this motion, Mr. McVeigh asserts the following:

- 1. On May 31, 2001, Mr. McVeigh moved in the district court for a stay of execution and the same was denied on June 6, 2001.
- 2. The district court based its denial on the conclusion that withheld *Brady* evidence concerning participation by others could not have affected the juries' death penalty determination.
- 3. The reasons for granting a stay and the supporting facts are included in the brief filed on behalf of Mr. McVeigh with this Court on June 6, 2001.
- 4. A copy of the district court's order denying the stay request is attached hereto as Exhibit "A".
- 5. Mr. McVeigh asserts the issue presented in the brief appealing the district court's denial of the stay request has a high likelihood of success on appeal due to the authority and facts presented in the brief. Moreover, Mr. McVeigh asserts that if given a reasonable opportunity to utilize withheld *Brady* material, he could establish a fraud upon the Court. Consequently, if given a stay, Mr. McVeigh will be able to present a motion to reopen his motion pursuant to 28 U.S.C. § 2255 and Rule 33 and do so with a high likelihood of success.
- 6. Irreparable harm will result if the stay is not granted because Mr. McVeigh will be executed on June 11, 2001 at 7:00 a.m.
 - 7. The United States will not be harmed if a stay is granted.
- 8. There is no risk of harm to the public interest. Granting a stay of execution so that a full and fair examination of issues at hand can be conducted will instead serve the public interest. Respectfully submitted,

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D.,,			
By:			

ATTORNEYS FOR TIMOTHY McVEIGH

CERTIFICATE OF SERVICE

	that a copy of the above and foregoing instrum AY OF EXECUTION, was hand delivered on the	,
to the following:		
	Sean Connelly Special Attorney to the U.S. Attorney General 1225 Seventeenth Street Suite 700 Denver, CO 80202	
	Robert Nigh Ir	